



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

Regulatory Branch (1145b)  
805 Frontage Road  
Suite 200C  
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE:	March 15, 2006
EXPIRATION DATE:	March 30, 2006
REFERENCE NUMBER:	POA-1991-339-2
WATERWAY:	Kachemak Bay

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Ms. Nicole J. Szarzi, Alaska Department of Fish and Game, Sport Fish Division; 3298 Douglas Place, Homer, Alaska 99603

LOCATION: The proposed project is located on the Homer Spit, at the Nick Dudiak Fishing Lagoon on Tract 2 of The Fishin Hole Subdivision within the SE  $\frac{1}{4}$  Section 35, T. 6 S., R. 13 W., Seward Meridian, Homer, Alaska; Kenai Peninsula parcel number 181-031-16; Latitude 59.6077°N, Longitude 151.4341°W; USGS Topo Map Seldovia C-4 SW.

WORK: The proposed project is to dredge approximately 350 cubic yards of gravel from below the Mean High Water Mark (MHW) of the inner south side of the entrance of the Fishing Lagoon using an excavator. Existing armor rock from the top of the bank on the south side of the lagoon entrance will be used to construct a temporary work pad at the base of the slope and on top of the gravel bar. This will be needed for the excavator to work from in order to reach the outer edges of the gravel bank and bottom of the lagoon. The gravel will be removed and loaded into a truck using another excavator or front end loader. The removed gravel will be hauled to the City of Homer stock pile. The armor rock will be returned to its original location on the top of the slope. All work would be conducted during low tide when the project area is dewatered.

PURPOSE: To alleviate angler conflicts caused by the build up of a gravel bar within the Fishing Lagoon.

ADDITIONAL INFORMATION: The Fishing Lagoon is located near the Homer Small Boat Harbor and has been present in this area since before 1977. However, there have been many changes to the Fishing Lagoon since this time. The proposed activity is planned to occur between March 27 and 31, 2006.

A review of available office information indicates that the permitting history on the Fishing Lagoon extends to 1991, when the Port and Harbor of Homer received a permit to expand the lagoon from 2.3 acres to 3.8 acres as mitigation for a project at the Homer Small Boat Harbor (file number POA-1991-339-2, Kachemak Bay). On March 7, 2005, the City of Homer received a Nationwide Permit (NWP) #3,

Maintenance, to repair storm damage to the fishing lagoon (file number POA-1991-339-D). A DA permit was issued to the City of Homer on August 5, 1998, to "construct 3 groins, armor the groins and entrance channel with riprap, and place one to four-inch cobble on the seaward side of existing berms on the east side of the "Fishing Lagoon". Place riprap and fill as necessary to install and support ramp walkways on the west side of the 'Fishing Lagoon' (file number POA-1991-339-N)." Finally, on April 5, 1999, another NWP #3 was authorized to Herndon & Thompson, Inc., on behalf of the City of Homer, Alaska Department of Fish and Game and the Alaska Department of Transportation and Public Facilities to "excavate approximately 3,000 cubic meters of beach sand, gravel and cobble, as necessary" in the maintenance of the existing Lagoon, which was damaged in storms.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: The project area is within the known or historic range of the Steller's Eider which is listed as Threatened under the Endangered Species Act of 1973 (87 Stat. 844). The lower Kenai Peninsula is known to support molting and wintering for this species. Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: The project is located within the Alaska Department of Fish and Game's Kachemak Bay Critical Habitat Area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Lisa M. Gibson at (907) 283-3519, if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States - Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer  
U.S. Army, Corps of Engineers

Attachments

# Vicinity Map and Cross-section View Drawing

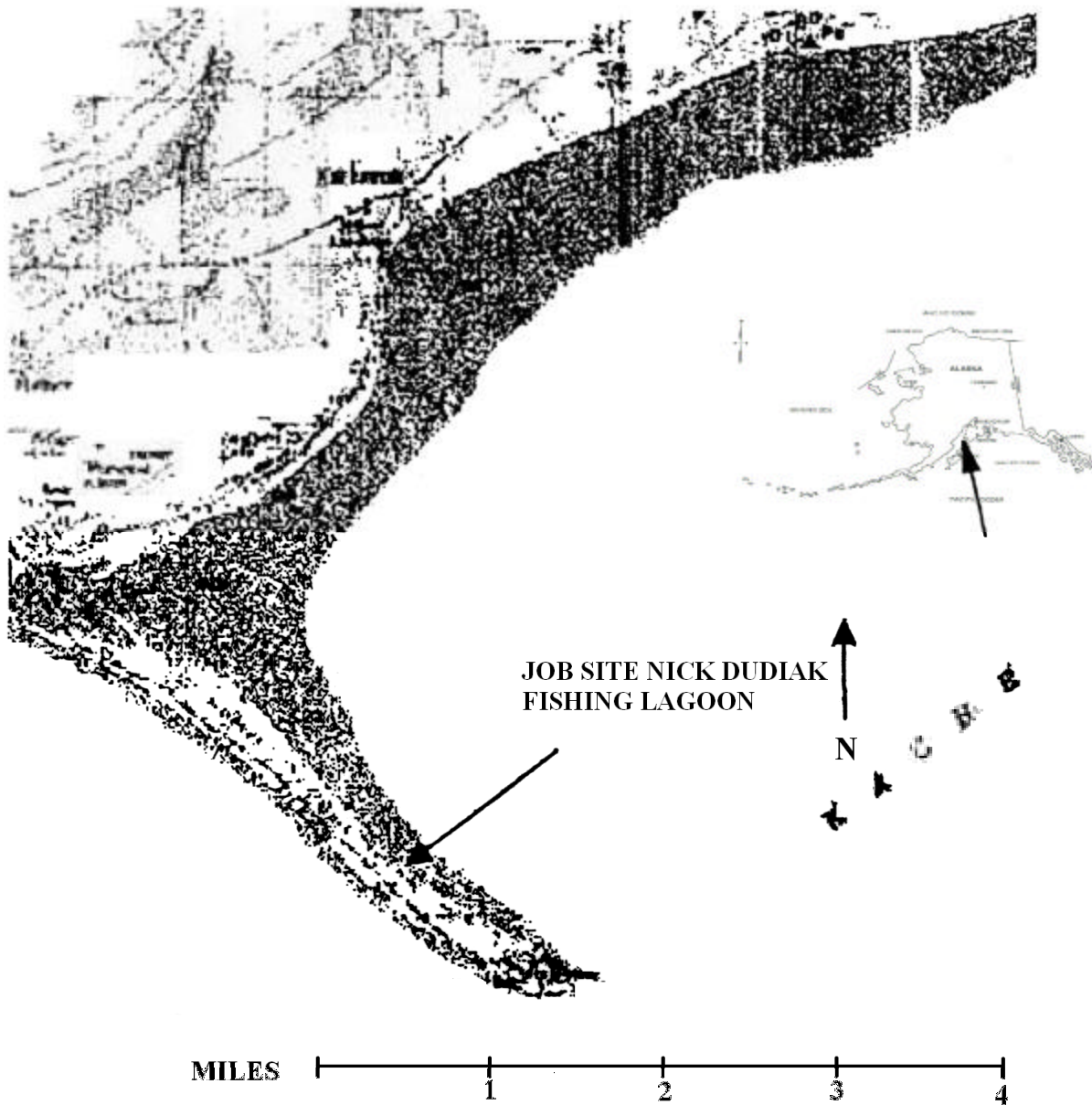


Figure 3 Job site location at the end of the Homer Spit

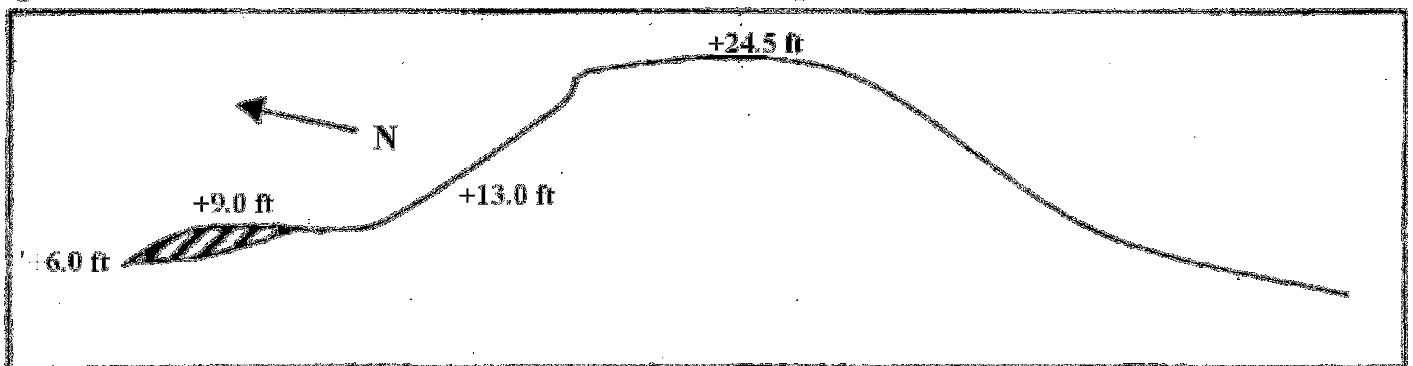
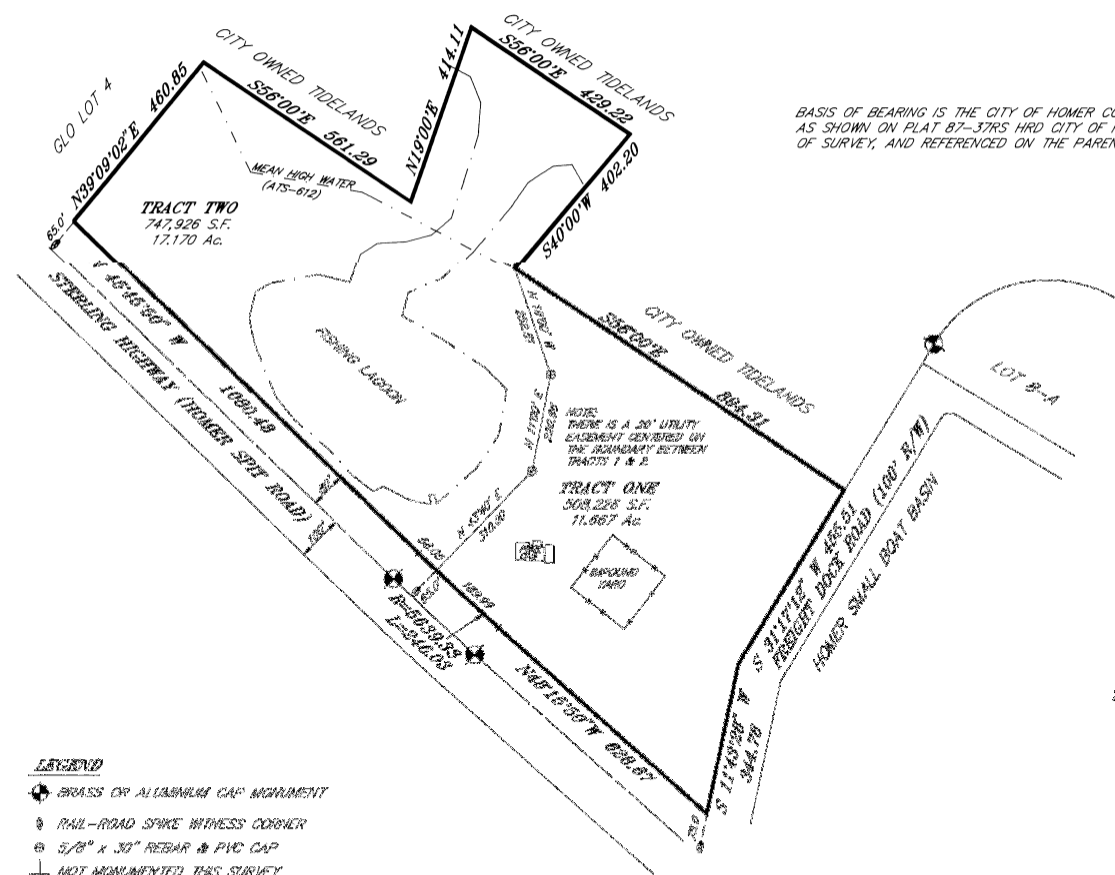


Figure 4 Cross-section with approximate elevations above MLW



BASIS OF BEARING IS THE CITY OF HOMER COORDINATE SYSTEM, AS SHOWN ON PLAT 87-37RS HRD CITY OF HOMER AREA RECORD OF SURVEY, AND REFERENCED ON THE PARENT PLAT 89-34HRD

#### LEGEND

- BRASS OR ALUMINUM CAP MONUMENT
- RAIL-ROAD SPIKE WITNESS CORNER
- 5/8" x 30" REBAR & PVC CAP
- NOT MONUMENTED THIS SURVEY

#### SURVEYOR'S CERTIFICATE

I hereby certify that this survey was performed by me or under my direct supervision. I declare that the information herein is true and correct to the best of my knowledge and belief.

*Jerry A. Anderson* PLS No. 3028  
Date: 8-11-92

#### NOTE:

NO OBJECT ACCESS TO STATE MAINTAINED RIGHTS OF WAY IS PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.

NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN ANY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.

#### WASTEWATER DISPOSAL:

WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION APPROVES THIS JURISDICTION FOR PLATTING.

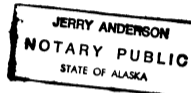
*Donalson* 8-11-92  
NAME AND DATE OF  
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
APPROVING OFFICIAL

Tap 85 Rgn 13W

#### CERTIFICATE OF OWNERSHIP

I hereby certify that I am the owner of the real property shown and described herein, and that I hereby adopt this plan of subdivision, and by my free consent dedicate all rights of way and public areas to public use, and grant all easements to the use shown.

*Richard J. Leland*  
Richard J. Leland  
Homer City Manager  
491 East Pioneer  
Homer, Alaska 99603



#### NOTARY'S ACKNOWLEDGEMENT

For Richard J. Leland  
Subscribed and sworn to before me this 12th day of August, 1992

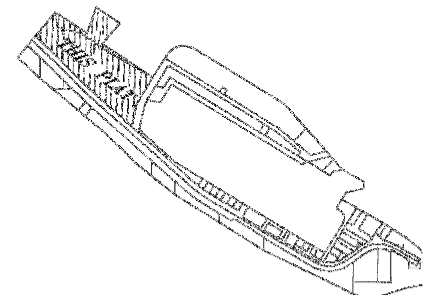
*Jerry Anderson*  
Notary Public for Alaska  
My Commission Expires 11-19-92

#### PLAT APPROVAL

This plat was approved by the Rural Pathways Through Planning Commission at the meeting of June 22, 1992

*Richard J. Leland*  
Authorized Official

VICINITY MAP SCALE: 1" = 1/4 MILE



DATE JULY 1992

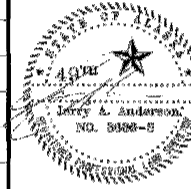
SCALE 1" = 200'

GRID No. 4R-72

F.L.D. BK. No. 176

DISK No. 2118

JOB No. 0535



#### THE FISHIN' HOLE

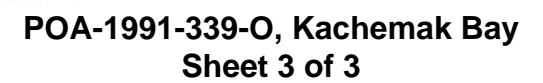
PORTION OF GLO LOT 14, LOTS 1 & 3 PLAT 89-34HRD IN THE SE-1/4 Sec 36, Twp 8S Rgn 13W S.M. ALASKA ON THE HOMER SP4T, WITHIN THE CITY OF HOMER HOMER RECORDING DISTRICT CONTAINING 26.837 ACRES

#### ABILITY SURVEYS

JERRY A. ANDERSON PLS  
(307) 275-8440  
BOX 378, HOMER, ALASKA 99603

KPB FILE No. 92-049

## KACHENAK BAY



# STATE OF ALASKA

OFFICE OF THE GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

### DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

### NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. POA-1991-339-O, Kachemak Bay, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation  
WQM/401 Certification  
555 Cordova Street  
Anchorage, Alaska 99501-2617  
Telephone: (907) 269-7564  
FAX: (907) 269-7508



FRANK H. MURKOWSKI, GOVERNOR

# STATE OF ALASKA

OFFICE OF THE GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

ALASKA COASTAL ZONE MANAGEMENT  
550 WEST 7<sup>TH</sup> AVENUE, SUITE 1660  
ANCHORAGE, ALASKA 99501-3568

**NOTICE OF APPLICATION  
FOR  
CERTIFICATION OF CONSISTENCY WITH THE  
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No.

**POA-1991-339-O, Kachemak Bay,** will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.